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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,475	04/13/2001	Paul L. Mullen	GEMS8081.070	7317

27061 7590 09/20/2005

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EXAMINER

LANEAU, RONALD

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/681,475

Applicant(s)

MULLEN ET AL.

Examiner

Ronald Laneau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Response to Amendment

1. The amendment filed on 07/18/05 has been entered. Claims 1-34 remain pending.
2. The affidavit filed on 7/18/05 under 37 CFR 1.131 has been considered but is ineffective because the attached exhibit A mentioned in the Declaration was not received by the Office. Until then, the Wetzer reference still applies.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Worley (US 6,651,190 B1) in view of Wetzer (US 6,378,748 B2).

Worley discloses a system and method for remotely managing communication of electronic data between a diagnostic service center and a plurality of machines generally remote relative to each other including the steps of remotely collecting condition data representative of a device status (see abstract); storing the condition data on a database (database server) at a centralized facility; reviewing the condition data (see col. 10, lines 4-8); and displaying it on a graphical user interface 406 (col. 3, lines 16-26), Worley further teaches that the statistic log may be configured so that the graphical user interface allows for user-friendly manipulation of data and for example generation of reports may be implemented in graphical and/or tabular format

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with electronic editing, copying, cutting and pasting options (col. 14, lines 4-9), a system that may be configured to generate periodic reports, e.g., weekly, monthly, etc based on the log of diagnostic statistics and the report may be configured to be distributed through the Internet or an intranet via a predetermined Web server (col. 14, lines 26-33), a system that is capable of being programmed to acquire the condition data and the reminder data via a LAN, a WAN, a telephone system, a cable communication system, and a wireless system as claimed (cols. 5-6, lines 19-23), the system of Worley would allow operators to monitor downloads in process and/or in queue and identify the type of download as claimed. Furthermore, Worley discloses notifying service technician that service is required on some components (col. 9, lines 32-36).

Worley does not teach that the GUI displays the time of the next scheduled maintenance but Wetzer teaches the step of storing data processing of components on components of an equipment, said data processing system associates at least one predictive maintenance factor (for a component) with the corresponding component data, a scheduler schedules maintenance for a maintenance time period for at least one of the components based on the first database, the second database, the associated predictive maintenance factor, and an elapsed time with respect to an installation date of at least one component, said predictive maintenance factor may be defined by one or more of the following: a longevity estimate, a probability of failure, a financial estimate on maintenance of a component (see abs), updating the maintenance file record to reflect the diagnosis, the schedule for service, etc (col. 1, lines 31-43). Furthermore, the system of Wetzer is well capable of tailoring the display for a particular user as claimed.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the teachings of Wetzer into the system of Worley because it would provide ways to track diagnostic data of devices to ensure they are in proper working order.

None of the references teaches marketing data, customer-entered data, and messages are consolidated. However, these differences are only found in the nonfunctional descriptive material and do not alter how the information is consolidated. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ 2d 1031 (Fed Cir 1994). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to consolidate marketing data, customer-entered data, and messages because the type of information being consolidated does not patentably distinguish the claimed invention.

Response to Arguments

3. Applicant's arguments filed on 7/18/05 have been fully considered but they are not persuasive.

Applicant's arguments are unpersuasive since exhibit A to overcome the Wetzer reference is not received by the Office.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is (571) 272-6784. The examiner can normally be reached on Mon-Fri from 8:30am - 6:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ronald Laneau

Ronald Laneau
Examiner
Art Unit 3627

9/6/05

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